

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**GREGG THOMAS, INDIVIDUALLY, AND)
S REPRESENTATIVE OF THE ESTATE OF)
ESTATE OF SYLVIA YVONNE THOMAS)
Plaintiff,)**

v.)

Civil Action No. 3:21-cv-01412

**CANTEX HEALTH CARE CENTERS III, LLC)
AND FW SENIOR COMMUNITY, LTD. CO)
Defendants,)**

UNSWORN DECLARATION OF PAUL J. DOWNEY

STATE OF TEXAS §

§

COUNTY OF DALLAS §

1. My name is Paul J. Downey. I am over 18 years of age, of sound mind, and capable of making this declaration. The facts stated in this declaration are within my personal knowledge and are true and correct.
2. I am an attorney licensed to practice in the State of Texas. I have been so licensed since 2014 and have practiced law in the Dallas-Fort Worth Metroplex area for the duration of my licensure. In that time, I have practiced exclusively civil litigation and appeals and am familiar with the type of work required in Health Care Liability Claims. I have attached a copy of my CV to this declaration as Exhibit 5a.
3. I am board certified in civil appellate law, and while in the employ of the Clinesmith Firm, I have handled numerous appeals and have successfully argued before each level of the Appellate Courts in Texas. On January 8, 2020, I argued for the Petitioner before the Texas Supreme Court in Cause No. 18-0350, *Luciano v. Sprayfoampolymers, LLC.com*. A 9-0 decision was rendered by the Texas Supreme Court in that case on June 25, 2021. On August 12, 2020, I won in a mandamus decision before the Dallas Court of Appeals, *Cause No. 05-20-00497-CV*, 2020 WL 4669805 (Tex.App.-Dallas, August 12, 2020.).
4. The going rate for attorneys working in the Dallas-Fort Worth Metroplex on civil litigation runs between \$200 and \$800 per hour.
5. As an attorney with seven years' experience in civil litigation, and who is board certified in Civil Appellate Law and appeals who operates in the Dallas Fort Worth Metroplex, I currently

bill at a rate of \$450 per hour, a rate which is reasonable in the geographical region in which I am located.

6. I am currently employed by the Clinesmith Firm as a Senior Associate Attorney. My office is located in Dallas County at 325 N. St. Paul St. Suite 2900, Dallas, Texas 75201.
7. Gregg Thomas retained the Clinesmith Firm to represent him and the Estate of Sylvia Thomas in this suit for personal injuries arising out of Sylvia Thomas's death while she was a resident at the Defendants' facility. I have personal knowledge of this case and of the work performed.
8. On April 23, 2021, the Clinesmith Firm, acting on behalf of Patrick Lollie filed suit against Colonnades Health Care Center Ltd. Co., and Cantex Health Care Centers II, LLC
9. On June 17, 2021, I received the Defendant's notice of removal to the United States District Court for the Northern District of Texas, Dallas Division. I spent approximately 1 hour reviewing it.
10. On July 13, 2021, I conferred with Defendants' attorneys in this matter regarding the instant motion to remand. They opposed the relief sought by the Plaintiff's motion for remand.
11. On July 21, 2021, I began preparing a motion to remand based on the arguments presented therein. Because I have successfully argued a number of these motions, including the , my review of cases and preparation of the motion took 5 hours to complete. I also delivered a copy of the order granting remand in *Moody* to the Defendants. No change to their opposition has been noted at the time of the filing of Plaintiff's Motion to Remand.
12. Considering the issues involved, the requirements of federal court regarding preparing briefs, and the extensive research necessary to reach all the issues raised by the Defendants in their notice of removal, and based on my experience, training, knowledge, and education, this work was necessary and reasonable.
13. Thus, a reasonable and necessary amount of time to research the issues involved, review the documents filed, and prepare a motion for remand and brief in support took 6 hours to complete.
14. At my billable rate of \$450, this comes out to a total of \$2700. This amount is the reasonable and necessary amount to review the motion, research and draft the motion and brief in support thereof.
15. The fees I charged in connection with this motion for protection are customarily charged in this area for the same or similar services for an attorney with my experience, reputation, and ability considering the amount in controversy, the time limitations imposed, and the results obtained.

16. My name is Paul J. Downey, my date of birth is January 19, 1984, my address is C/O Clinesmith Firm, 325 N. St. Paul St., 29th Floor, Dallas, Texas 75201, United States of America. I declare under Penalty of Perjury that the forgoing is true and correct.

/s/ Paul J. Downey

Paul J. Downey

Executed in Dallas County on July 28, 2021